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05 UNITED STATES DISTRICT COURT
06 WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

07 CHRISTOPHER PORTER,)
08) CASE NO. C11-0645-RSM
09 Petitioner,)
10 v.)
11 UNITED STATES OF AMERICA,) REPORT AND RECOMMENDATION
12 Respondent.)
_____)

13 On April 15, 2011, petitioner filed a motion to vacate, set aside, or correct his sentence
14 pursuant to 28 U.S.C. § 2255. (Dkt. No. 1.) This Court ordered petitioner's motion served on
15 the government and the government filed a response to the motion on June 22, 2011. (Dkt.
16 Nos. 5 and 13.) After reviewing the submissions of the parties, this Court concluded that an
17 evidentiary hearing was required. Thus, on September 2, 2011, this Court issued an Order
18 directing the Clerk to schedule an evidentiary hearing and to appoint counsel to represent
19 petitioner at the hearing. (Dkt. No. 14.) Counsel was thereafter appointed and an evidentiary
20 hearing was scheduled for December 16, 2011. (See Dkt. Nos. 16 and 18.) On December 12,
21 2011, petitioner, through counsel, filed a motion to withdraw/dismiss his § 2255 motion. (Dkt.
22 No. 19.)

01 As petitioner has expressed a desire to withdraw his § 2255 motion, and as there appears
02 no reason why petitioner should not be allowed to withdraw the motion at this juncture, this
03 Court recommends that petitioner's motion to withdraw his § 2255 motion be granted and that
04 this action be dismissed. This Court further recommends that the evidentiary hearing
05 scheduled for December 16, 2011 be stricken as moot. Finally, given that petitioner has
06 effectively moved for a voluntary dismissal of this matter, this Court recommends that the
07 Honorable Ricardo S. Martinez, United States District Judge, immediately approve this Report
08 and Recommendation and dismiss this action. A proposed order accompanies this Report and
09 Recommendation.

10 DATED this 13th day of December, 2011.

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13 Mary Alice Theiler
14 United States Magistrate Judge
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